

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-and-

THE VULCAN SOCIETY, ET AL,

Plaintiffs-Intervenors,

-against-

THE CITY OF NEW YORK,

Defendant.

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NOTICE OF MOTION FOR
SUMMARY JUDGMENT ON
CLASS-WIDE
COMPENSATORY
DAMAGES

Case No. 07-CV-2067
(NGG)(RLM)

ECF Case

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support of Motion for Summary Judgment on Class-Wide Compensatory Damages; the Rule 56.1 Statement of Undisputed Facts in Support of Plaintiffs-Intervenors' Motion For Entry of Summary Judgment on Class-Wide Compensatory Damages, the Declaration of Richard A. Levy, dated September 28, 2010, with Exhibits A and B thereto; the annexed affidavits of Captain Paul Washington, dated June 15, 2010 (Exhibit C), Lieutenant Michael Marshall, dated May 18, 2010 (Exhibit D), and August 4, 2010 (Exhibit E), Marcus Haywood, dated July 13, 2010 (Exhibit F) and August 5, 2010 (Exhibit G), Jamel Nicholson, dated July 1, 2010 (Exhibit H), Kevin Simpkins, dated August 9, 2010 (Exhibit I), Kevin Walker, dated August 4, 2010 (Exhibit J), and Roger Gregg, dated August 26, 2010 (Exhibit K); John Coombs, dated February 19, 2010 (Ex. L), Candido Nuñez, dated February 19, 2010 (Ex. M) and upon all the prior pleadings and proceedings had herein, Plaintiffs-Intervenors will move this Court before the Honorable Nicholas G. Garaufis at the United States Courthouse for the Eastern District of New York, located at

225 Cadman Plaza East, on such day and time as counsel may be heard for entry of summary judgment on Class-Wide Compensatory Damages to be calculated as set forth in the annexed Proposed Compensatory Damages Order (Exhibit N).

This Motion for Summary Judgment on Class-Wide Compensatory Damages is pursuant to the Court's January 13, 2010 Order (Dkt. # 385) finding intentional discrimination under federal, State and City law and also finding unlawful disparate impact under the State and City Human Rights laws; the Court's January 21, 2010 Initial Remedial Order (Dkt. # 390, at 39) noting that "the Intervenor's' intentional discrimination showing with respect to black applicants will likely require supplemental forms of relief," and Plaintiffs-Intervenors prior memoranda addressing the appropriateness of class-wide compensatory damages as an element of make-whole relief. *See* Memorandum in Further Support of Plaintiffs-Intervenors' Motion for Summary Judgment (Dkt. # 376, at 2-4); Joint Statement Regarding Relief Phase Issues (Dkt. # 400-1, at 59-61); and Plaintiffs-Intervenors' Response to Court's Request for Their Position Regarding Class-Wide Compensatory Damages (Order of January 21, 2010) (Dkt. # 401).

PLEASE TAKE FURTHER NOTICE that pursuant to the agreed-upon schedule for briefing of this matter, as ordered by the Court on September 17, 2010 (Dkt. # 553), responses by the Plaintiff and the Defendant will be served on or before October 29, 2010 and replies by the Plaintiffs-Intervenors, if any, will be served on or before November 23, 2010.

Dated: New York, New York
September 29, 2010

LEVY RATNER, P.C.

/s/ Richard A. Levy

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